

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF)
WATER RIGHT NO.: 35-2543)
_____)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-35-09

A drought emergency has been declared for Power County to allow administrative actions to lessen the severe impacts of the drought conditions in the county; and

Idaho Code §42-222A provides that upon declaration of a drought emergency, the director of the Department of Water Resources is authorized to allow temporary changes in the point of diversion, the place of use, and the purpose of use for valid existing water rights when the director determines that such changes can be accomplished in accordance with the provisions of Idaho Code §42-222A; and

On May 10, 2022, Aberdeen-Springfield Canal Co. submitted the attached Temporary Change Application to the Department; and

The Department has reviewed the application and has determined the application can be approved with certain conditions;

ORDER

IT IS HEREBY ORDERED that the application is APPROVED subject to the following conditions:

1. Diversion and use of the changed portion of Right No(s). 35-2543 is authorized only at the points of diversion and place of use described on the application.
2. This temporary change approval does not authorize construction of a new well or diversion works as a new point of diversion.
3. The applicant assumes all risk of curtailment or mitigation should the diversion and use of water under the temporary change approval cause injury to other water rights, constitute an enlargement in use of the original right, be inconsistent with the conservation of water resources within the state of Idaho, or not be in the local public interest.
4. This temporary change approval may only be used to provide a replacement water supply to lands or other uses which normally have a full water supply, except for the drought condition. This temporary change approval may not be used to provide water for new development or to allow expansion of the use of water under existing water rights.

5. Prior to the diversion and use of water under this temporary change, the right holder shall install and maintain acceptable measuring device(s) at the authorized point(s) of diversion in accordance with Department specifications, or shall obtain an approved variance from the Department to determine the amount of water diverted from power records or to maintain an existing measuring device.
6. This temporary approval does not authorize the use of diversion works or a delivery system owned by or managed by a corporation or an irrigation district without the consent of such corporation or irrigation district.
7. The applicant agrees to hold the Director and the State of Idaho harmless from all liability on account of the diversion and use of water under this temporary change approval.
8. This temporary change approval does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
9. The watermaster of Water District No. 120 is authorized to administer the temporary change approval.
10. The portion of right 35-2543 included in this temporary change together with right nos. 1-23B, 1-297, and 35-4246 are limited to the irrigation of a combined total of 61,433 acres.
11. This temporary change approval expires on October 31, 2022 unless rescinded or extended by the director. Thereafter, the water right shall revert to the point of diversion, place of use and nature of use existing prior to the temporary change approval.

DATED this 11th day of May, 2022.



James Cefalo
Eastern Region Manager

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAY 10 2022

TC-35-09

TEMPORARY CHANGE APPLICATION

Department of Water Resources
Eastern Region

(To change point of diversion, place of use, or purpose of use of a water right upon
declaration of a drought emergency in accordance with Section 42-222A, Idaho Code.)

Name of Applicant Aberdeen-Springfield Canal Company Phone 208-397-4192
Mailing Address PO Box 857, Aberdeen, ID 83210 Email Tonyd@ascanal.org

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change purpose of use ☐ Other

2. Describe the proposed change(s) and explain the reason(s) they are needed. _____

Add point of diversion to ground water rights 35-4246 and 35-2543. Point of diversion provides water to lower canal system and was previously drilled under listed rights.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
35-2543	08/07/1958	~~6cfs/2547af~~ <u>2.80cfs/1188.6 AF</u>	Irrigation	04/01 to 10/31
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____
_____	_____	_____	_____	_____ to _____

2. Total amount of water being transferred ~~6 cfs~~ 2.80 cubic feet per second and/or ~~2547~~ 1188.6 acre-feet per annum.

3. Source of water Ground Water tributary to _____.

4. Point(s) of diversion: Area Served by Aberdeen Springfield Canal Company

Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or tag number
7S	30E	26			NW	NW	POWER	GROUND WATER	D0032868
5S	31E	11			NW	NE SW	BINGHAM	GROUND WATER	MANAWELL

5. Lands irrigated or place of use: Area Served by Aberdeen Springfield Canal Company

Twp	Rge	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

* AMOUNTS IN B.1. + B.2. CHANGED PER TELECONFERENCE WITH APPLICANT.

Total Acres 61,773

6. General Information:

- a. Who owns the water right to be changed? Aberdeen-Springfield Canal Company
- b. Describe the arrangement allowing use of the right. Company already owns well although it is not listed on water rights as a POD. Well is currently unused.
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
Large POU will be irrigated using company ground water right instead of surface water rights.
- d. Has the water right sought to be transferred been used this year? ☒ Yes ☐ No If yes, explain. Water rights have been diverted and used at listed POD's.
- e. Absent the changes, how would the right be used for the remainder of the year? All all PODs including the added POD but would still pump under allowed diversion rate/volume.
- f. Describe other water rights used for the same purpose. _____
- g. Remarks: An NOV had previously been issued on this POD and it has gone unused. Company is seeking to temporarily add it as a POD to existing ground water rights to avoid crop loss on lower canal acres due to extrem

I hereby assume all risk in accordance with Section 42-222A, Idaho Code, and assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.

[Signature]
Signature of Applicant

5/10/2022
Date

FOR DEPARTMENT USE ONLY

Received by M. Pettis Date 5-10-22 \$50 fee receipted by M. Pettis Receipt No. E048122
Recommend: ☐ approve ☐ deny Watermaster recommendation _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. _____, and said application is hereby _____, subject to the following limitations and conditions:

See attached approval.

Temporary Change Expiration Date _____

Signed this _____ day of _____, _____.

For the Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECOMMENDATION OF WATERMASTER

Application No: TC-35-09

Applicant's Name: ABERDEEN-SPRINGFIELD CANAL CO

Watermaster's Recommendation:

- a) X I do not oppose approval of this application.
- b) I do not oppose approval of this application if it is conditioned as

follows: _____

- c) I oppose approval of this application for the following reasons:

- d) X Additional Comment: 3.2 cfs Leased; Rented From
WSB. Remaining rate that is Authorized is 2.8 cfs.
POD's should be limited to 2.8 cfs

Dated this 10th day of May, 2022

Water District No: 120

Blake Jordan

Blake Jordan
Watermaster's Signature

Use reverse side of page if you need more space.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1014

This Lease Contract ("Lease") is between the Idaho Water Resource Board ("Board"), and

LESSOR: ABERDEEN SPRINGFIELD CANAL CO
PO BOX 857
ABERDEEN, ID 83210

RECEIVED

AUG 09 2019

**DEPARTMENT OF
WATER RESOURCES**

RECITALS

1. The Board is authorized under chapter 17, title 42, Idaho Code to operate a water supply bank and to contract with lessors to act as an intermediary in facilitating the rental of water.
2. The Lessor has filed a completed application to lease water rights described below into the Water Supply Bank on forms supplied by the Idaho Department of Water Resources and received by the Department on April 10, 2019.
3. The Director of the Idaho Department of Water Resources has reviewed the application for compliance with the Water Supply Bank rules and has approved the Lease subject to conditions listed below.

NOW, THEREFORE, in consideration of the mutual covenants and contracts herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **WATER RIGHTS:** The Lessor shall lease and the Board shall accept into the Bank the Applicant's water rights described as follows:

Summary of Water Rights or Portions Leased to the Bank

Water Right No.	Priority Date	Source	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (AC)
35-2543	8/7/1958	GROUND WATER	3.20	1,358.4	Not Stated
Lease Totals			3.20	1,358.4	Not Stated

Summary of Water Rights Elements Rentable From the Bank

Water Right	Diversion Rate (CFS)	Diversion Volume (AF)	Acres (Limited) (AC)	Rate Per Acre (CFS/AC)	Volume Per Acre (AF/AC)
35-2543	3.20	1,358.4	339.6	0.01	4.0
Limit Totals	3.20	1,358.4	339.6	0.01	4.0

** The water right elements rentable have been calculated from the water right elements leased to account for acre limits based on the area headgate standard.*

2. **COMPENSATION:** The Lessor shall accept and the Board shall pay compensation determined by the amount of water rented under the following rental rate during such times as the water is rented from the Bank over the term of this Lease.

Minimum Payment Acceptable: Current Rental Rate

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1014

**ATTACHMENT A
WATER SUPPLY BANK CONDITIONS OF ACCEPTANCE**

The water rights or portions thereof leased to the bank are described as follows:

Source and Location of Point(s) of Diversion for Water Right No(s): 35-2543

GROUND WATER NWNESW Sec. 11 Twp 05S Rge 31E BINGHAM County

Water Right	Beneficial Use	Season of Use			Diversion Rate (CFS)	Volume (AF)
		From		To		
35-2543	IRRIGATION	04/01	to	10/31	3.20 cfs	1,358.4 AF
Totals:					3.20 cfs	1,358.4 AF

PLACES OF USE TO BE IDLED UNDER THIS LEASE: IRRIGATION

Place of use is within the area served by Aberdeen-Springfield Canal Company
Large POU: 61,772.6

Total Acres: 339.6

ADDITIONAL CONDITIONS OF ACCEPTANCE

1. The water rights referenced above will be rented from the bank at the current rental rate.
2. There is no rental payment to the lessor of the water right if the right or a part thereof is not rented from the bank.
3. While a right is in the bank, the lessor may not use the right without approval of the Department even if the right is not rented from the bank. Any violation of the terms of this lease may result in enforcement procedures pursuant to Idaho Code § 42-351 for illegal diversion and use of water and may include civil penalties pursuant to Idaho Code § 42-1701B.
4. A right accepted into the bank stays in the bank until the Board releases it, or the lease term expires. A right may be released from the bank upon request, provided the Board approves the release. Unless approved by the Department, leased rights may not be immediately available for release.
5. While a water right is in the bank, forfeiture provisions are stayed pursuant to Idaho Code § 42-223(5).
6. Rental of water under this right is subject to the limitations and conditions of approval of the water right.
7. Failure of the right holder to comply with the conditions of acceptance is cause for the Director to rescind acceptance of the lease.
8. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right, or improve the status of the right including the notion of resumption of use. It does not preclude the opportunity for review of the validity of this water right in any other Department application process.
9. In accordance with Idaho Code § 42-248 and § 42-1409(6), all owners of water rights are required to notify the Department of any changes in mailing address or change in ownership of all or part of a water right. Notice must be provided within 120 days of the change.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER SUPPLY BANK LEASE CONTRACT No. 1014

10. If a water right leased into the Water Supply Bank is sold or conveyed during the lease term, and if the leased right was rented, the rental proceeds will be disbursed in the following manner regardless of any arrangements between the buyer(s) and seller(s) to the contrary:
 - a. Rental payments will go to the lessor(s) of record at the beginning of the rental season, even if the Department processes a Notice of Change in Water Right Ownership during the rental season.
 - b. New lessor(s) of record will receive payment for any subsequent rental seasons.
11. The water right(s) is leased to the bank subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.
12. Place of use is within the area served by Aberdeen-Springfield Canal Company.
13. The boundary encompassing the place of use for this water right is described with a digital boundary as defined by I.C. Section 42-202B(2) and authorized pursuant to I.C. Section 42-1411(2)(h). The data comprising the digital boundary are incorporated herein by reference and are stored on a CD-ROM disk issued in duplicate originals on file with the SRBA District Court and the Idaho Department of Water Resources. A map depicting the place of use is attached hereto to illustrate the place of use described by the digital boundary.
14. The unleased portion of right 35-2543 is limited to a diversion rate of 2.80 cfs and an annual diversion volume of 1,188.6 af.
15. The unleased portion of right 35-2543 with Right Nos. 1-23B, 1-297, 35-2543, and 35-4246 are limited to the irrigation of a combined total of 61,433 acres in a single irrigation season.
16. Use of water under this right is regulated by a Watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 120.